

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,
Plaintiff,

v.

JOEL K. PARKER,
Defendant.

2:06-CR-00109-PMP-LRL
2:13-CV-00112-PMP

ORDER

Before the Court for consideration is Defendant Joel Parker's fully briefed Motion Pursuant to 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (Doc. #181). For the reasons set forth in the Government's Opposition (Doc. #183), the Court finds that Defendant Parker's Motion (Doc. #181) must be denied.

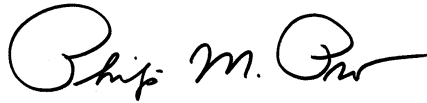
First, the Court finds that Defendant Parker has failed to demonstrate that the performance of his trial counsel was ineffective under the standards established by *Strickland v. Washington*, 466 U.S. 668 (1984) and its progeny. As noted in the Government's Opposition, Parker's trial counsel cannot be characterized as "ineffective" based on the allegation that the attorney failed to file a motion that was entirely without merit. Neither has Defendant Parker demonstrated that he was prejudiced by a failure of his counsel to file a frivolous pretrial motion.

Similarly, Parker's argument that his attorney's performance on appeal was ineffective is also without merit. Indeed, it appears that every argument Defendant

1 Parker now makes was in fact raised on direct appeal, litigated and lost.

2 **IT IS THEREFORE ORDERED** that Defendant Parker's Motion
3 Pursuant to 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in
4 Federal Custody (Doc. #181) is **DENIED**.

5
6 DATED this 19th day of February, 2013.

7
8 

9
10

PHILIP M. PRO
United States District Judge